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7                   UNITED STATES DISTRICT COURT  
8                   WESTERN DISTRICT OF WASHINGTON  
9                   AT TACOMA

10 BRENTA M. JOHNSON,

CASE NO. C19-5174 BHS

11                   Plaintiff,  
v.

ORDER DENYING PLAINTIFF'S  
MOTION

12 DEPARTMENT OF SOCIAL AND  
13 HEALTH SERVICES, et al.,

14                   Defendants.

15                  This matter comes before the Court on Plaintiff Brenda Johnson's ("Johnson")  
16 objection and motion to reopen. Dkt. 10.

17                  On March 7, 2019, Johnson filed a motion to proceed *in forma pauperis* and a  
18 proposed complaint against the Department of Social and Health Services, the  
19 Department of Child Support, and Terry Lee Rembert ("Defendants") asserting violations  
20 of her constitutional rights based on an alleged denial of benefits. Dkts. 1, 1-1. On  
21 March 29, 2019, the Court dismissed the proposed complaint, granted Johnson leave to  
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1 amend, and renoted her motion. Dkt. 3. The Court stated that the majority of her claims  
2 against the State or State agencies failed and provided explicit instructions on how to  
3 properly plead the elements of her civil rights claims. *Id.* On April 19, 2019, Johnson  
4 filed a proposed amended complaint. Dkt. 4. On May 16, 2019, the Court denied  
5 Johnson’s motion, dismissed her complaint without leave to amend, and ordered the  
6 Clerk to close the case. Dkt. 8. On May 20, 2019, Johnson filed the instant objections  
7 and motion to reopen, which the Court will consider as a motion for reconsideration.  
8 Dkt. 10.

9       Upon review of the motion, the Court concludes that dismissal was proper not  
10 only for the reasons articulated in the previous order but also because Johnson’s instant  
11 motion and exhibits reinforce the Court’s conclusion that she fails to state a claim. First,  
12 Johnson alleges that Defendants were negligent and violated her Fifth and Fourteenth  
13 Amendment rights to due process. *Id.* at 1–2. Johnson fails to show that allegations  
14 involving negligence establish every element of a due process claim. Second, Johnson  
15 attached the state administrative order that she seems to challenge. *Id.* at 7–19. In that  
16 order, the administrative law judge clearly set forth Johnson’s appeal rights. *Id.* at 17–19.  
17 It does not appear that Johnson utilized those remedies, which raises questions of  
18 exhaustion of state court remedies. Moreover, “when a litigant has not attempted to  
19 present [her] federal claims in related state-court proceedings, a federal court should  
20 assume that state procedures will afford an adequate remedy, in the absence of  
21 unambiguous authority to the contrary.” *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 15  
22 (1987). If Johnson could have presented her due process claims in her appeal, then

1 abstention may apply. *Id.* Therefore, the Court denies Johnson's motion for  
2 reconsideration.

3 **IT IS SO ORDERED.**

4 Dated this 1st day of July, 2019.

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7 BENJAMIN H. SETTLE  
United States District Judge

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